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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY: CP

DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

IN THE MATTER OF THE  
ADMINISTRATIVE INSPECTION OF  
GALLOWAY PHARMACY  
2995 NATIONAL AVENUE  
SAN DIEGO, CA 92113

CASE NO. '08 MJ 1080  
AFFIDAVIT IN SUPPORT OF AN  
ADMINISTRATIVE INSPECTION WARRANT

I, Lucia Bartolomeo, being duly sworn, hereby depose and say:

1. I make this affidavit in support of an administrative inspection warrant of GALLOWAY PHARMACY located at 2995 National Avenue, San Diego, California 92113. Pursuant to 21 U.S.C. § 880(b)(1), the purposes of the administrative inspection is to inspect, copy, and verify the correctness of records, reports, and others documents required to be kept under the Controlled Substances Act and for the purposes of protecting the public health and safety.

2. Pursuant to 21 U.S.C. § 880(d)(1), "[a]ny judge of the United States or any United States Magistrate Judge may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purposes of conducting administrative inspections and seizures of property appropriate to such inspections." For the purposes of an administrative inspection warrant under 21 U.S.C. § 880, the term "probable cause" means "a valid public interest in the effective enforcement of this subchapter or regulations thereunder sufficient to justify administrative inspections of the area, premises, building, or conveyance, or contents thereof, in the circumstances specified in the application for the warrant." Based on the facts set forth below, I believe there is probable cause for the requested administrative inspection warrant.

1           3.       I am a duly appointed Diversion Investigator of the United States Drug Enforcement  
2 Administration ("DEA") and have been so employed for 19 years. I am currently assigned to the San  
3 Diego Field Division Office of DEA. I have completed an intensive 9-week training academy which  
4 provided me with a background and basis of knowledge relating to the investigation of crimes related  
5 to controlled substances, including but not limited to, the importation and distribution of controlled  
6 substances in violation of Title 21 of the United States Code.

7           4.       I am authorized under 21 U.S.C. §§ 878(a)(2) and 880(b)(2) to execute administrative  
8 inspection warrants for the purpose of inspecting controlled premises of persons and firms registered  
9 under the Controlled Substances Act (21 U.S.C. § 800, et seq.) in order to inspect, copy, and verify the  
10 correctness of all records, reports, and other documents required to be kept.

11          5.       GALLOWAY PHARMACY is registered under the provisions of the Controlled  
12 Substances Act, 21U.S.C. §§ 822 and 823, as a retail pharmacy and is assigned DEA Registration  
13 Number BG4336461 in Schedules 2, 2N, 3, 3N, 4 and 5. GALLOWAY PHARMACY's registered  
14 principal place of business is 2995 National Avenue, San Diego, CA 92115, and described as a single-  
15 story business located on the southwest corner of National Avenue and S. 30th Street. GALLOWAY  
16 PHARMACY has a stone exterior on the front of the business with "Galloway Pharmacy" signs located  
17 at the top of the north and east sides of the business. The front entrance is located on the north side of  
18 the business in between two sets of windows. The rear entrance is located on the south side of the  
19 business with a concrete ramp leading up to the door with the words "Employee Entrance Only" painted  
20 above the rear door. This place of business is a controlled premise within the meaning of Title 21,  
21 United States Code, Sections 880(a), and Title 21, Code of Federal Regulations, Section 1316.02(c).

22          6.       GALLOWAY PHARMACY is required to keep complete and accurate records of all  
23 controlled substances received, prescribed, dispensed, purchased, delivered or otherwise disposed of,  
24 pursuant to 21 U.S.C. § 827 and the applicable Code of Federal Regulations.

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1           7. Agents from the DEA and FBI are conducting an ongoing criminal investigation into the  
2 significant diversion of controlled substances from three pharmacies under common ownership:

3 (1) GALLOWAY PHARMACY, (2) MEDICINE WORLD dba PARK BOULEVARD PHARMACY,  
4 and (3) WHITE CROSS DRUG STORE. The three pharmacies are owned and operated by Fadi  
5 ATIYA, Ramsey ATIYA, and Akram ATIYA. Fadi ATIYA is the owner, president and Pharmacist-in-  
6 Charge of GALLOWAY PHARMACY. Fadi ATIYA is also the vice president of MEDICINE  
7 WORLD dba PARK BOULEVARD PHARMACY and president of WHITE CROSS PHARMACY.  
8 Ramsey ATIYA is the secretary for both MEDICINE WORLD dba PARK BOULEVARD  
9 PHARMACY and WHITE CROSS DRUG STORE. Akram ATIYA, is listed as president of  
10 MEDICINE WORLD dba PARK BOULEVARD PHARMACY and Vice President for WHITE CROSS  
11 DRUG STORE.

12           8. On February 22, 2008, two pharmacy technicians employed at GALLOWAY  
13 PHARMACY -- Jose Jesus Peruch SAENZ and Jesus MACIAS -- were indicted in Criminal Case No.  
14 08CR0509-BEN and charged with conspiracy to distribute oxycodone<sup>1/</sup> and hydrocodone bitartrate,<sup>2/</sup>  
15 in violation of 21 U.S.C. §§ 846 and 841(a)(1), and distribution of oxycodone and hydrocodone  
16 bitartrate in violation of 21 U.S.C. § 841(a)(1). SAENZ was also indicted in Criminal Case No.  
17 08CR0511-BEN, and charged with conspiracy to distribute oxycodone and hydrocodone in violation  
18 of 21 U.S.C. §§ 846 and 841(a)(1), and distribution of hydrocodone in violation 21 U.S.C. § 841(a)(1).

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24           <sup>1/</sup> Oxycodone is a potent and potentially addictive opioid analgesic medication synthesized  
25 from thebaine. It is a Schedule II controlled substance both as a single agent and in combination  
with other products such as acetaminophen, ibuprofen, or aspirin.

26           <sup>2/</sup> Hydrocodone is a narcotic which relieves pain by binding to opioid receptors in the  
27 brain and spinal cord. Pure hydrocodone, and forms containing more than 15 mg per dosage unit,  
28 are Schedule II controlled substances. Tablets consisting of less than 15 mg hydrocodone per  
dosage unit constitute hydrocodone bitartrate and are Schedule III controlled substances. For purposes  
of this affidavit, all references to "hydrocodone" refer to "hydrocodone bitartrate."

1           9.       On March 6, 2008, Agents from the FBI executed criminal search warrants on  
2 GALLOWAY PHARMACY, WHITE CROSS DRUG STORE and MEDICINE WORLD dba PARK  
3 BLVD PHARMACY to further the investigation. The search warrants authorized agents to seize all  
4 prescriptions at GALLOWAY PHARMACY. To expedite the execution of the search warrant, agents  
5 relied upon the employees at GALLOWAY PHARMACY to identify the prescriptions that involved  
6 controlled substances. However, upon reviewing the records seized from GALLOWAY PHARMACY,  
7 it was discovered that prescription records in schedules 3 through 5 were not seized from GALLOWAY  
8 PHARMACY.

9           10.      On March 6, 2008, the DEA issued an Immediate Suspension Order on GALLOWAY  
10 PHARMACY that precludes GALLOWAY PHARMACY from purchasing, dispensing, or possessing  
11 controlled substances in schedules 2 through 5 until an Administrative Hearing is held, which is  
12 scheduled for May 5, 2008.


13           11.      Based on my training and experience and conversations with investigators, and the  
14 common ownership of the three pharmacies by the ATIYA family, I believe that GALLOWAY  
15 PHARMACY may have been/be involved in diversion of controlled substances. I seek to inspect  
16 GALLOWAY PHARMACY's prescription records and verify that oxycodone tablets, hydrocodone  
17 bitartrate tablets, and other controlled substances have been properly handled.

18           12.      The inspection will be conducted within regular business hours, the Diversion  
19 Investigator's credentials will be presented to the registrant, the inspection will begin as soon as  
20 practicable after the issuance of the warrant and will be completed with reasonable promptness, and that  
21 the warrant will be returned within ten (10) days.

22           13.      The inspection will extend to obtaining GALLOWAY PHARMACY's controlled  
23 substance prescriptions in Schedules 3 through 5 for the time period between July 1, 2005 to March 6,  
24 2008, the inspection and copying of inventories, records, reports, order forms, invoices, and other  
25 documents required to be kept and the inspection of all other things therein, including records, files, and  
26 papers, which are appropriate for the verification of the records, reports, and documents required to be  
27 kept under the Controlled Substances Act.  
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1           14. During the execution of the administrative inspection warrant, I will be accompanied by  
2 one or more Diversion Investigators and DEA Special Agents who are authorized by the Attorney  
3 General to conduct administrative inspections. Upon the completion of the inspection, a return will be  
4 made to the United States Magistrate Judge who issued the warrant.

5           I declare under penalty of perjury that the foregoing is true and correct.

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8 LUCIA BARTOLOMEO  
9 Diversion Investigator  
10 U.S. Drug Enforcement Administration

11 Sworn to and subscribed before me  
12 this 3rd day of April, 2008.

13   
14 HONORABLE ANTHONY J. BATTAGLIA  
15 United States Magistrate Judge  
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